IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No.18114 of 2004

Between:

B.Munikrishna S/o.Balakrishna
U.D.C., in the office of Assistant Divisional Engineer (operations), APSPDCL, Srikalahasthi, R/o.H.No.15-99/1. Padmavathinagar, Tirupathi-2 Chittoor District.

..... PETITIONER

AND

1. The Superintending Engineer (Operation), Southern Power Distribution Company of A.P. Ltd., Tirupathi, Chittoor District.
2. The Enquiry Officer and Divisional Engineer (Enquiries), A.P.S.P.O.C.L., Tirupathi, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue writ or order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 2nd respondent in issuing the Charge Sheet Vide Memo No. DE/ ENQ/TPT/F.DOC.No.733/ D.No. 296/04 dated 10.9.2004 based on the proceedings Lr.No.SE/O/TPT/PO/ADM/U3/F/SF/D.No.835/04, Dated.8.9.2004 of the first Respondent is illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and quash the same.

Counsel for the Petitioner:MR.J.M.NAIDU

Counsel for the Respondent Nos.1 and 2: MR.S.RAVINDRANATH

The Court made the following :

ORDER:

This writ petition is filed to issue a writ of Mandamus declaring the action of the second respondent in issuing the charge sheet vide Memo No. DE/ENQ/TPT/F.DOC.No.733/D.No. 296/04 dated 10.09.2004 basing on the proceedings No.SE/O/TPT/PO/DM/U3/F/SF/D.No.835/04, dated 08.09.2004 of the first respondent as illegal and arbitrary.

Learned counsel for the petitioner contended that with regard to the first allegation in the charge sheet that the petitioner does not belong to the scheduled caste, the respondents-Department has no jurisdiction to decide the same and it has to refer it to the competent authority, who is the District Collector to determine the social status of the petitioner. With regard to the second allegation in the charge sheet that a false complaint is filed by the petitioner against three persons, it has to be determined finally in the revision case filed by the petitioner against the judgment, dated 27.10.2003, passed by the learned Special Sessions Judge cum IV Additional District Judge, Tirupathi in S.C.No.14 of 2000 which is pending before this Court. Hence initiation of the impugned proceedings is not in accordance with law.

On the other hand, the learned Standing Counsel appearing for the respondents contended that as obtaining false certificate and also making false complaint against three persons by the petitioner amounts to misconduct, there is no bar in initiating departmental proceedings against him.

The first allegation in the charge is that the petitioner got job in the respondents-Department by producing the scheduled caste certificate though he does not belong to that caste. Under Rule 18 of the Andhra Pradesh (Scheduled Castes, Schedule Tribes & Backward Classes) issue of Nativity and date of Birth Certificates, Rules 1997, (for short “the Rules”), it is stated as follows:

> ***“whenever complaints are received regarding the community claim of any employee / prospective employee/student claiming to belong to a Scheduled Caste/ Scheduled Tribe or Backward class , the appointing authority/ employer/ educational institution must refer the case only to the District Collector of the District from where the Competent Authority has issued the certificate. The District Collector shall in turn get it verified by the scrutiny committee constituted at the District level as per Rule 08. The District Collector would inform the final action to the appointing authority/employer/educational institution within a period of***

90(ninety) days from the date of receipt of the complaint by him/her from the appointing authority/ employer/ educational institution."

The above provision makes it clear that the respondents-Department has to refer the case to the District Collector concerned for determination of the social status of the petitioner in accordance with law. The respondents cannot proceed with the allegation in the first charge until the social status of the petitioner is determined by the District Collector. Therefore, liberty is given to the respondents to refer the matter with regard to the social status of the petitioner to the District Collector concerned under Rule 18 of the Rules.

The second allegation in the charge sheet is that the petitioner made a false complaint against three persons under S.Cs and S.Ts (Prevention of Attrocities) Act, 1998 (for short "the Act"). No doubt, a finding has been given by the Special Sessions Judge cum IV Additional District Judge, Tirupathi in S.C.NO.14 of 2000 holding that the petitioner does not belong to scheduled caste and that the provision of the Act do not attract the complaint filed by him. But that judgment is under challenge in Criminal Revision Case No.26 of 2004 before this Court. Till the said revision case is disposed of, no disciplinary action shall be initiated by the respondents-Department against the petitioner.

With the above said observations, the writ petition is disposed of. No costs.

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K.C.BHANU, J

8th December, 2004.

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To

1. The Superintending Engineer (Operation), Southern Power Distribution Company of A.P. Ltd., Tirupathi, Chittoor District.
2. The Enquiry Officer and Divisional Engineer (Enquiries), A.P.S.P.O.C.L., Tirupathi, Chittoor District.

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